

CHAPTER 64:09:01
INTERPRETIVE RULES

Section

64:09:01:01	Use tax law -- Procedure.
64:09:01:02 and 64:09:01:03	Repealed.
64:09:01:04	Exemption of property brought in for personal use of nonresident.
64:09:01:05	Repealed.
64:09:01:06	Exemption of raw materials and parts for manufacture of products to be sold at retail.
64:09:01:07	Repealed.
64:09:01:08	Property purchased for use in another state <u>Repealed.</u>
64:09:01:09	Property sold here used in interstate commerce.
64:09:01:10 to 64:09:01:15	Repealed.
64:09:01:16	Prime contractors -- Liability for tax.
64:09:01:17 and 64:09:01:18	Repealed.
64:09:01:19	Boats.
64:09:01:20	Determination of age and value of tangible personal property.
64:09:01:21 to 64:09:01:27	Repealed.
64:09:01:28	Tax credit disallowed.

64:09:01:08. Property purchased for use in another state. ~~Contractors and others storing property in this state are subject to use tax upon that property if the property is not resold regardless of whether the property is eventually used here or in another state~~ Repealed.

Source: SL 1975, ch 16, § 1; 11 SDR 1, effective July 19, 1984; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

~~**General Authority:** SDCL 10-46-35.1.~~

~~**Law Implemented:** SDCL 10-46-1(1).~~

ARTICLE 61:24

VEHICLE DEALER LICENSING

Chapter

61:24:01	Definitions.
61:24:02	License procedures.
61:24:03	Conduct of business.
61:24:04	Permits.
61:24:05	License revocation, Repealed.
61:24:06	Dealer bond pool.
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CHAPTER 61:24:02

LICENSE PROCEDURES

Section

61:24:02:01	Application process - - Dealer license.
61:24:02:02	Repealed.
61:24:02:03	Multiple year dealer <u>Dealer license renewal.</u>
61:24:02:04	Initial and renewal staggered licensing of boat dealers.

61:24:02:05 Initial and renewal staggered licensing of dealers.

61:24:02:03. ~~Multiple year dealer~~ Dealer license renewal. ~~A multiple year dealer license is valid for five years.~~ Each year after the an initial license is issued and at least three months before the deadline date for renewal of the license, the department shall send the licensee ~~a~~ an electronic or written verification renewal notice. The notice shall contain information included in the department's records pertaining to the dealership. The dealer shall verify the information, supply required information to update the information, if necessary, sign the notice, and return the notice, along with any required fees, to the county treasurer's office of the county in which the dealership is located, if the dealer is exempted from using the online dealer system under § 61:24:03:12, or electronically on the dealer system. The notice, fees, and any required documentation must be received electronically by the Department or by the county before the deadline date designated on the notice. The notice deadline date shall be the month before the last day of the month assigned to the licensee for renewal of a dealer license. The county treasurer shall invoice the fees and submit the notice and any supporting documentation to the department. ~~At the end of the five year license period, the~~ The licensee, upon completion of the renewal notice process, shall receive an updated electronic or hard copy of the dealer license.

Source: 24 SDR 180, effective July 1, 1998.

General Authority: SDCL 32-6B-14, 32-7B-20.

Law Implemented: SDCL 32-6B-14, 32-7B-8.

CHAPTER 61:24:03

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Section

- 61:24:03:01 Maintenance of principal place of business.
- 61:24:03:02 Notice of change in principal place of business.
- 61:24:03:03 Record keeping requirements.
- 61:24:03:04 Inspection after receipt of information questioning compliance.
- 61:24:03:05 Contents of consignment contract.
- 61:24:03:06 Records to be made available prior to consignment sale.
- 61:24:03:07 Records to be maintained for five years.
- 61:24:03:08 Dealer lists.
- 61:24:03:09 Dealer insurance requirement.
- 61:24:03:10 Dealer surety bond.
- 61:24:03:11 Access fee.
- 61:24:03:12 Exemption from on-line requirements.
- 61:24:03:13 Billing requirements.
- 61:24:03:14 Filing requirements.

61:24:03:12. Exemption from on-line requirements. A dealer licensed prior to July 1, 2008, who sells less than fifteen vehicles per year or a manufactured home dealer who sells less than five homes per year and who does not have access to a computer at the principal place of business may apply to the department for an exemption from having to use the on-line computer system. If the exemption is approved the dealer shall submit a report of sale within fifteen days of the date of sale to the purchaser's county treasurer along with a \$5 fee. ~~Any vehicle titled and registered in accordance with SDCL 32-5-27 may be either taken to the county treasurer of the dealer's residence or submitted to the Division of Motor Vehicles Fast Title Service along with a \$5 fee.~~

Source: 35 SDR 48, effective September 8, 2008.

General Authority: SDCL 32-6B-60, 32-7B-20.

Law Implemented: SDCL 32-3-38.3.

ARTICLE 64:28

VEHICLE LICENSING

Chapter

64:28:01	Definitions.
64:28:02	Initiated procedures, repealed.
64:28:03	Application requirements.
64:28:04	New vehicles, trailers, and snowmobiles.
64:28:05	Vehicles previously registered.
64:28:06	Duplicate certificates.
64:28:07	Void and replacement certificates.
64:28:08	Change of county residence, repealed.
64:28:09	Assignment of certificate of title.
64:28:10	Correction of titles.
64:28:11	Conversion of body type and rebuilt motor vehicles.
64:28:12	Liens.
64:28:13	Transfer of ownership.
64:28:14	Salvage titles, repealed.

CHAPTER 64:28:10
CORRECTION OF TITLES

Section

64:28:10:01 Correct application information required - - Title fee applies if incorrect title issued based on original application.

64:28:10:02 No fee charged for correction of department error.

64:28:10:03 Disposition of incorrect certificates of title.

64:28:10:01. Correct application information required - - Title fee applies if incorrect title based on original application. A title applicant, before signing and submitting the application for South Dakota certificate of title, shall make certain that all information listed on the application form is correct and that the applicant's name and address are legible. On an assignment of a South Dakota certificate of title, the purchaser shall see that the purchaser's name and address are correctly and legibly entered. A replacement certificate of title issued because of incorrect or illegible information contained on the original application for title is considered a new title and the ~~five dollar fee required under~~ application fee in SDCL 32-3-18 ~~applies~~ is due.

Source: SL 1975, ch 16, § 1; 8 SDR 87, 8 SDR 134, effective July 1, 1982; transferred from § 1:02:11:01, 12 SDR 111, effective January 12, 1986; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 17 SDR 4, effective July 18, 1990.

General Authority: SDCL ~~32-3-57~~ 32-3-57(2).

Law Implemented: SDCL 32-3-14, 32-3-18, 32-3-57.

ARTICLE 64:29
MOTOR VEHICLE REGISTRATION

Chapter

- 64:29:01 Interpretive rules, repealed.
- 64:29:02 Interpretations.
- 64:29:03 Licensing.

CHAPTER 64:29:02
INTERPRETATIONS

Section

- 64:29:02:01 Repealed.
- 64:29:02:01.01 Contents of bill of sale.
- 64:29:02:02 Repealed.
- 64:29:02:03 License issued when requirements are met - - Tax paid.
- 64:29:02:03.01 and 64:29:02:03.02 Repealed.
- 64:29:02:03.03 Application for excise tax refund by purchaser.
- 64:29:02:04 Receipt required for refunds.
- 64:29:02:04.01 Tangible personal property allowed as a trade-in on motor vehicles.
- 64:29:02:04.02 Solid waste management fee - - Exclusions.
- 64:29:02:04.03 ~~Refunds not authorized by law~~ Repealed.
- 64:29:02:04.04 Proof of value of insurance check.
- 64:29:02:05 to 64:29:02:07 Repealed.
- 64:29:02:08 Proof of payment taxes for reciprocity.
- 64:29:02:09 to 64:29:02:13 Repealed.

64:29:02:14 Trade-in allowance.

64:29:02:15 to 64:29:02:17 Repealed.

64:29:02:18 Mobile home and manufactured home consignment sales.

64:29:02:04.03. Refunds not authorized by law. ~~Refunds of the solid waste management fees and motorcycle safety education fees are not authorized by law and may not be issued by the Division of Motor Vehicles.~~ Repealed.

Source: 19 SDR 42, effective September 29, 1992.

General Authority: ~~SDCL 32-5-111.~~

Law Implemented: ~~SDCL 32-5-10.1, 34A-6-83, 34A-6-84.~~

ARTICLE 64:75

ALCOHOLIC BEVERAGES

Chapter

64:75:01 Definitions and general provisions.

64:75:02 Licensing procedures.

64:75:03 ~~Alcoholic beverages (except malt beverages) --~~ Unfair practices.

64:75:04 ~~Alcoholic beverages (except malt beverages) --~~ Interpretive rules.

64:75:05 ~~Alcoholic beverages (except malt beverages) -- Occupational taxes~~ Alcohol taxes.

64:75:06 Malt beverages -- Interpretive rules: , Repealed.

64:75:07 Malt beverages -- Occupational taxes: , Repealed.

64:75:08 Malt beverages -- Unfair practices: , Repealed.

64:75:09 Age restrictions -- Interpretive rules, Repealed.

CHAPTER 64:75:01

DEFINITIONS AND GENERAL PROVISIONS

Section

- 64:75:01:01 Definitions.
- 64:75:01:02 Trade name billings.
- 64:75:01:03 Inspection of records.
- 64:75:01:04 ~~Maintenance of records.~~ Repealed.
- 64:75:01:05 Filing of invoices.
- 64:75:01:06 ~~Wholesaler violations.~~ Repealed.
- 64:75:01:07 ~~Retailer violations.~~ Repealed.
- 64:75:01:08 ~~Solicitor violations.~~ Repealed.
- 64:75:01:09 Foreign dealer violations.

64:75:01:01. Definitions. Terms used in this article mean:

- (1) "Brand," the name commonly used on bottles or other containers and otherwise used to designate the ~~liquor~~ alcoholic beverage sold;
- (2) "Broken case lots," ~~liquor~~ alcoholic beverage of a quantity less than a case of any particular brand;
- (3) "Case," a carton or similar package containing individual retail containers as packaged by the ~~bottler~~ manufacturer;
- (4) "Cash," United States currency, check, and electronic fund transfers;
- (5) "Consumer advertising specialties," can openers, bottle openers, place mats, glasses, coasters, napkins, matches, sacks, serving trays, and similar items containing brand advertising information or logos;

~~(6) "Contested case," a proceeding including but not restricted to licensing, and a hearing held pursuant to SDCL 35-2-10 and 35-2-12 to 35-2-19, inclusive, in which the legal rights, duties, or privileges of a party are required by law to be determined by the department after an opportunity for hearing;~~

~~(7) "Corporation," any corporation holding, or applying for an alcoholic beverage license under SDCL 35;~~

~~(8) (6) "Department," the South Dakota Department of Revenue and Regulation;~~

~~(9) (7) "Foreign dealer," any person, firm, corporation, partnership, or company authorized pursuant to SDCL 35-6, 35-4, and 39-13 Title 35 or SDCL Ch. 39-13 to import, transport or cause to be transported alcoholic beverages into South Dakota this state for sale to a wholesale licensee;~~

~~(10) (8) "Industry member," any manufacturer, distiller, vintner, brewer, importer, or wholesaler or rectifier of alcoholic beverages;~~

~~(11) (9) "Involuntary transfer," any sale, assignment, hypothecation, or other transfer of any stock or any interest whatsoever therein, which occurs by operation of law, including any change in ownership or control of such stock or any interest therein, resulting from death of the owner or holder thereof, from any judicial sale, from attachment or other legal process of like nature, from foreclosure of any pledge or other hypothecation, or from any other procedure or means whatsoever not requiring the assent of such owner or holder;~~

~~(12) "License," the whole or part of any permit, certificate, approval, registration, charter, or similar form of permission required by law. The term does not include a license required solely for revenue purposes;~~

~~(13) "Licensing," the department process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, withholding, or amendment of a license;~~

~~(14) "Party," any person or agency, or department named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party;~~

~~(15) (10) "Person," any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character~~ any individual, firm, copartnership, joint adventure, association, limited liability company, corporation, municipal corporation, estate, trust, business trust, receiver, the State of South Dakota and its political subdivisions, or any group or combination acting as a unit;

~~(16) "Price schedule," the schedule of prices required by this article to be filed with the secretary by each wholesaler, together with all effective amendments thereto;~~

~~(17) "Rule," a rule defined in SDCL 1-26-1(7);~~

~~(18) "Solicitor licensee," any person employed by a licensed wholesaler within this state, or any distiller or manufacturer within or without this state, who contacts a wholesaler or retail dealer within this state for the purpose of selling, promoting, or advertising alcoholic beverages or for any other reason connected with the alcoholic beverage industry. The term does not include employees of wholesale or transporter licensees who only deliver such beverages;~~

~~(19) (11) "Stock," any outstanding stock whatsoever of any corporation, whether such stock is classed as common or preferred and regardless of whether such stock entitled the holder thereof to any voting rights in such corporation;~~

~~(20) (12) "Tie in sales arrangement," any sale of liquor~~ alcoholic beverages by a wholesaler to a retailer, conditioned upon purchase or order of other ~~liquor~~ alcoholic beverages;

~~(21)~~ (13) "Voluntary transfer," any sale, assignment, hypothecation, or other transfer of any stock, or any interest whatsoever therein, regardless as to whom the transfer is made, and whether or not such transfer is shown on the records of such corporation, which is other than an involuntary transfer;

~~(22)~~ (14) "Wholesaler," ~~any holder of a wholesaler's license under SDCL 35-4 and 35-6 and also any holder of a manufacturer's or distiller's license under SDCL 35-4 and 35-6 insofar as such manufacturer's or distiller's licensees transact business in sale of alcoholic beverages at wholesale within the state of South Dakota~~ any person who sells alcoholic beverages to retailers for resale.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 30 SDR 58, effective November 5, 2003; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(1)(5)(7)(8).

Law Implemented: SDCL 10-1-1(4)(22)(24), 35-10-1(1)(5)(7)(8).

64:75:01:02. Trade name billings. ~~Original and duplicate~~ Any invoices invoice covering sales for the sale of alcoholic beverages ~~sold to retailers~~ a retailer ~~by wholesalers~~ shall be in the name of the actual that appears on the retail licensee license ~~and must not be invoiced to trade names.~~ Each invoice shall show and include the date of delivery.

Source: SL 1975, ch 16, § 1; 2 SDR 2, effective July 17, 1975; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

General Authority: SDCL ~~35-10-1~~ 35-10-1(2).

Law Implemented: SDCL 35-10-1(2), 35-4-2.

64:75:01:03. Inspection of records. Each wholesale licensee shall keep and make available to the secretary during regular business hours, business records, including executive and supervisory personnel expense vouchers; sales promotional expense records for each month during the current year; salesmen incentive and contest expenses for each month of the current year, showing the number of salesmen and the amount earned by such salesmen and the amount spent per case on each brand on each incentive or contest; check register; purchase journal; sales journal and credit memoranda; detailed record of disposition of samples, showing samples used on which the ~~occupational~~ alcohol excise tax was paid and samples used on which the ~~occupational~~ alcohol excise tax was not paid; shipping manifests on alcoholic beverages received, sales invoices and ledger accounts; and current financial statements certified by a public accountant.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

General Authority: ~~SDCL 35-10-1~~ 35-10-1(9)(10)(11).

Law Implemented: ~~SDCL 35-10-1(7)~~ 35-10-1(7)(9)(10)(11).

64:75:01:04. Maintenance of records. ~~All records specified in § 64:75:01:03 must be current and kept at the offices of each wholesale licensee. Failure to make records available for inspection is grounds for revocation or summary suspension of the license.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

General Authority: ~~SDCL 35-10-1.~~

Law Implemented: ~~SDCL 35-10-1(7).~~

64:75:01:05. Filing of invoices. Every person, ~~firm, company, partnership, or corporation~~ shipping ~~any~~ alcoholic beverages into the this state of ~~South Dakota~~ shall, ~~upon the date of~~

~~shipment, forward provide to the department a copy of original invoice to the consignee, or other commercial document monthly report showing the date of shipment, ~~carrier~~, name and address of both the ~~consignor, name and address of the consignee~~ seller and purchaser, ~~size of individual containers, number of cases, proof, brand, description of the brand, the number of wine gallons and the total dollar amount of alcoholic beverages purchased by the consignee, invoice number, total purchase price, and total volume of alcoholic beverages purchased by type.~~ These documents must be in the hands of the department at the time the beverages are received in this state.~~

Source: SL 1975, ch 16, § 1; 5 SDR 6, effective August 6, 1978; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-4~~ 35-10-1(2)(9).

Law Implemented: ~~SDCL 35-10-1(9)~~ 35-5-20.1.

64:75:01:06. Wholesaler violations. ~~Any violation by a wholesaler of any of the provisions of this article or any tie in sales arrangements, other unfair or discriminatory practices, or practice forbidden by SDCL 37-1, constitutes cause for revocation of such wholesaler's license or for refusal to renew such license upon expiration. Repealed.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

General Authority: ~~SDCL 35-10-1.~~

Law Implemented: ~~SDCL 35-10-1(6).~~

64:75:01:07. Retailer violations. ~~No person licensed pursuant to SDCL title 35 may in any way participate in any violation of the provisions of this article or personally or through any agent or employee accept any benefit which a wholesaler is forbidden to bestow under this article. Any such action constitutes cause for suspension or revocation of the person's license. Repealed.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-2-10, 35-10-1(6).~~

64:75:01:08. Solicitor violations. ~~No solicitor licensee may in any way participate in any violation of this article or commit any act which a wholesaler is forbidden to commit under the provisions of this article. Any violation by a solicitor of this section constitutes cause for revocation or suspension of the person's license. Repealed.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

General Authority: ~~SDCL 35-10-1.~~

Law Implemented: ~~SDCL 35-10-1(6).~~

64:75:01:09. Foreign dealer violations. No foreign dealer may, for the purpose of stimulating sales by any wholesaler, either personally or by any employee, or agent ~~or solicitor~~, commit or participate in any act or conduct forbidden by this article. Violation of any provisions of this article by any foreign dealer constitutes cause for revocation or suspension of any permit or brand label registration held by such foreign dealer under SDCL 35-4, 35-6, and 39-13 Title 35 or SDCL Ch. 39-13, ~~and revocation or suspension of all licenses to solicitors employed by such foreign dealers.~~

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

General Authority: ~~SDCL 35-10-1~~ 35-10-1(6).

Law Implemented: SDCL 35-10-1(6).

CHAPTER 64:75:02
LICENSING PROCEDURES

Section

- 64:75:02:01 Scope of chapter.
- 64:75:02:02 Voluntary transfer -- Report required.
- 64:75:02:03 Involuntary transfer -- Report required.
- 64:75:02:04 ~~Violation penalty.~~ Repealed.
- 64:75:02:05 Application for future licenses.
- 64:75:02:06 Repealed.
- 64:75:02:07 Manufacturing License – TTB Permit Required.
- 64:75:02:08 Farm Wineries and Wine Manufacturers – TTB Report Required.

64:75:02:01. Scope of chapter. This chapter applies to any ~~corporation, person, or entity,~~ holding any alcoholic beverage license, ~~and to all persons who are agents or employees thereof or holding any interest therein.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(7).

Law Implemented: ~~SDCL 35-2-1.~~ SDCL 35-10-1(7).

64:75:02:04. Violation penalty. ~~If any corporation violates or fails to comply with any provisions of this chapter, the violation or failure to comply constitutes cause for revocation or suspension of its license or refusal to renew such license upon expiration.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1.~~

Law Implemented: ~~SDCL 35-2-10, 35-2-21.~~

64:75:02:05. Application for future licenses. No alcoholic beverage license may be granted to any corporation, ~~whether or not a previous holder of such a license,~~ unless the application contains, in addition to the requirements of SDCL 35-2-2.1 and ~~all~~ any other information required by the secretary ~~pursuant to SDCL 35-2-1, 35-2-6.1 and 35-2-7,~~ an agreement ~~substantially as follows~~ containing the following language:

"This application and any license issued thereon constitutes a contract between the undersigned corporation and the state of South Dakota. The undersigned corporation shall comply with all provisions whatsoever of §§ 64:75:02:01 to 64:75:02:05, inclusive, of the rules of the secretary of the Department of Revenue ~~and Regulation.~~ The undersigned expressly agrees that violations of any of the provisions of chapter 64:75:02, or failure to comply therewith, whether by the undersigned corporation or by any stockholder thereof, or by anybody interested in said corporation, constitutes cause for revocation or suspension of any license issued pursuant to this application or for refusal to renew such license upon expiration thereof."

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 30 SDR 58, effective November 5, 2003.

General Authority: ~~SDCL 35-10-1.~~ SDCL 35-10-1(7), 35-2-10.

Law Implemented: SDCL 10-1-14, 35-2-1, 35-2-10.

64:75:02:07. Manufacturing License Required – TTB Permit Required. Prior to the issuance of a manufacturing license issued pursuant to SDCL ch. 35-12, 35-13, 35-14, 35-15, or 35-16, the applicant shall provide the secretary with the applicant's current Alcohol and Tobacco

Tax and Trade Bureau permit authorizing alcohol manufacturing at the location described on the application for license.

General Authority: SDCL 35-12-22, 35-16-7.

Law Implemented: SDCL 35-12-22, 35-16-7.

64:75:02:08. Farm Wineries and Wine Manufacturers – TTB Report Required. Prior to the renewal of a license issued pursuant to SDCL ch. 35-12 or 35-16, the applicant shall provide the secretary with all of the applicant’s Alcohol and Tobacco Tax and Trade Bureau wine premises operations reports for the previous twelve-month period.

General Authority: SDCL 35-12-22, 35-16-7, 35-15-10, 35-13-24, 35-14-10.

Law Implemented: SDCL 35-12-22, 35-16-7, 35-15-10, 35-13-24, 35-14-10.

CHAPTER 64:75:03

~~ALCOHOLIC BEVERAGES (EXCEPT MALT BEVERAGES)~~ -- UNFAIR PRACTICES

Section

- 64:75:03:01 Scope of chapter.
- 64:75:03:02 ~~Filing~~ Maintenance of price schedule.
- 64:75:03:03 ~~Alternate filing of price schedule.~~ Repealed.
- 64:75:03:04 Amendment of price schedules.
- 64:75:03:05 Discontinued merchandise.
- 64:75:03:06 New merchandise.
- 64:75:03:07 ~~Effective date.~~ Repealed.
- 64:75:03:08 ~~New licensees.~~ Repealed.
- 64:75:03:09 ~~Preservation of price schedules — Public record.~~ Repealed.

- 64:75:03:10 Conformity to price schedule.
- 64:75:03:11 ~~Use of suggested price list. Repealed.~~
- 64:75:03:12 ~~Suggested resale prices not required. Repealed.~~
- 64:75:03:13 Repealed.
- 64:75:03:14 ~~Breakage. Repealed.~~
- 64:75:03:15 ~~Breakage claims. Repealed.~~

64:75:03:01. Scope of chapter. This chapter applies to all alcoholic beverages, ~~except malt beverages.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL ~~35-10-1(1-11)~~ 35-10-1(1)(2)(4)(6).

Law Implemented: SDCL 35-4-52.

64:75:03:02. Filing Maintenance of price schedule. ~~Each wholesaler must file with the secretary, in a form authorized by the secretary, a complete schedule of all prices to be charged free on board, the municipality of shipment, for each brand of alcoholic beverages. The secretary may authorize the electronic filing of price schedules. The price schedule shall specify the unit price per case for alcoholic beverages of each brand and the unit price per bottle, or other container, for all alcoholic beverages of each brand sold in broken case lots. The size of the bottle or other container shall be specified.~~

~~The price schedule shall be uniform for each case of each container size for each brand of liquor, regardless of the label or container design.~~

Each wholesaler must maintain a complete schedule in a form authorized by the secretary of each price to be charged freight on board and the municipality of shipment, for each brand and

brand segment of alcoholic beverages. The price schedule shall be uniform for each package of each container size for each brand segment of alcoholic beverages, regardless of the label or container design. The price schedule shall specify:

- (1) The unit price per package for alcoholic beverages of each brand and brand segment;
- (2) The unit price per bottle, can, case, broken case lot, or other container for each alcoholic beverage sold; and
- (3) The size of the bottle, can, or other container in each package.

Each wholesaler must maintain its current price schedule at its principal place of business and leave the price schedule open to inspection by the secretary during normal business hours. Each price schedule used within the last year must be dated and kept at the principal place of business and be made available for inspection.

For purposes of this section, the term "brand segment" means: a sub-category of alcoholic beverage under the main brand.

Source: SL 1975, ch 16, § 1; 3 SDR 10, effective September 1, 1976; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL ~~35-10-1(6)~~ 35-10-1(6)(9).

Law Implemented: SDCL 35-4-52, 35-10-1(6).

64:75:03:03. Alternate filing of price schedule. ~~Any trade journal in general use and circulation among wholesaler and retailer licensees in South Dakota may be used to publish a price schedule as required by § 64:75:03:02. If a trade journal is used, no filing with the secretary is necessary, provided that amendments in prices do not become effective before the next publication~~

~~and schedules on discontinued merchandise complies with §§ 64:75:03:04 and 64:75:03:05.~~
Repealed.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6)(10).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6)(10).~~

64:75:03:04. Amendment of price schedules. ~~At any time after filing a price schedule, a~~
A wholesaler may amend the price schedule by ~~filing an amendment in a form authorized by the~~
~~secretary,~~ specifically designating each item where a change in price is made and stating in each
instance the price to be charged. ~~The secretary may authorize the electronic filing of amendments.~~
Amendments shall specify the date they are to be effective, which may not be less than 10 days
after ~~the filing of~~ the amendment. The wholesaler's previous price schedule ~~previously on file~~ shall
remain ~~effective~~ in effect until the amendment becomes effective. Any amendment made to meet
a competitive price may go into effect at the same time as the competitive price or at any time
within the period for which that price is ~~filed~~ in effect. An amendment ~~filed~~ to meet a competitive
price must remain in effect for at least ten days; ~~However, if the amendment~~ may remain in effect
for all or any remaining portion of the period for which the competitive price was ~~filed~~ in effect.
If the competitive price is not a post-down ~~filing~~, the amended price may return to its originally
scheduled price at the same time as the competitive price or after six months from the time the
amendment ~~was filed~~ went into effect.

Source: SL 1975, ch 16, § 1; 11 SDR 1, effective July 19, 1984; 13 SDR 129, 13 SDR 134,
effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL~~35-10-1(6)~~ 35-10-1(6)(11).

Law Implemented: SDCL 35-4-52, 35-10-1(6)(11).

64:75:03:05. Discontinued merchandise. A wholesaler may ~~file a price schedule amendment reducing~~ reduce the price for a case or designated container size of a brand of alcoholic beverages where the wholesaler is discontinuing the merchandising of the case or designated container size of the brand, provided such case or container size of the brand was previously offered for sale by the wholesaler for a period of 6 months or more and the wholesaler will not offer the same for sale for a period of 12 months subsequent to the closing inventory sale thereof. ~~The approximate number of cases of such discontinued merchandise must also be filed.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL ~~35-10-1(6)~~ 35-10-1(6)(11).

Law Implemented: SDCL 35-4-52, ~~35-10-1(6)~~ 35-10-1(6)(11).

64:75:03:06. New merchandise. The price schedule on new merchandise of any brand not previously sold by a wholesaler ~~may be~~ is effective on the date the ~~amendment is filed~~ price of the new merchandise is established.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL ~~35-10-1(6)~~ 35-10-1(6)(11).

Law Implemented: SDCL ~~35-10-1(6)~~ 35-10-1(6)(11).

64:75:03:07. Effective date. ~~Any amendment filed to a price schedule is effective on the date indicated. However, any person may file a written notice of protest to the change with the secretary within five days from the date of the filing of the amendment. The secretary may hear~~

~~and determine any objection to the amendment. If no order is given by the secretary prior to the end of the waiting period, the protest to the amendment is rejected and the amendment approved.~~

Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:08. New licensees. ~~Before commencement of business under a wholesale license, a licensed wholesaler shall file a price schedule with the secretary. The price schedule is effective immediately upon filing.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:09. Preservation of price schedules -- Public record. ~~Each price schedule shall be preserved by the secretary in a form that readily and conveniently discloses all prices to be charged. Whenever amendments to any price schedule become so numerous that the schedule is confusing, the secretary shall require the filing of a new and complete price schedule that strictly follows the price schedule and amendments currently on file. Each price schedule shall be open at convenient times for public inspection.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

~~Law Implemented:~~ ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:11. Use of suggested price list. ~~If a wholesaler distributes to any retailer a suggested retail price list, a current copy shall be kept on file with the department. Each suggested price list shall have prominently imprinted thereon, in bold face type: "USE OF SUGGESTED RESALE PRICES BY RETAILERS IS ENTIRELY VOLUNTARY. THESE PRICES ARE NEITHER APPROVED OR DISAPPROVED BY THE DEPARTMENT OF REVENUE AND REGULATION."~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

~~General Authority:~~ ~~SDCL 35-10-1(6).~~

~~Law Implemented:~~ ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:12. Suggested resale prices not required. ~~No wholesaler may state or infer that suggested resale prices are required either by state or federal law or by any rule of the department.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

~~General Authority:~~ ~~SDCL 35-10-1.~~

~~Law Implemented:~~ ~~SDCL 35-4-52, 35-10-1(6).~~

64:75:03:14. Breakage. ~~All broken or damaged alcoholic beverage bottles shall be reported to the secretary monthly on forms provided by the department. The wholesaler shall retain the bottle neck with the federal stamp affixed as physical evidence of broken or damaged bottles until it is examined by a representative of the department who will certify the correctness of the reports and supervise destruction of the evidence.~~ Repealed.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-5-10, 35-10-1(6).~~

Law Implemented: ~~SDCL 35-5-10, 35-10-1(6).~~

64:75:03:15. Breakage claims. ~~Any claims by a retailer to a wholesaler for broken or damaged merchandise shall be made within one week of receipt of the broken or damaged merchandise and may be made to a salesman representing the wholesale house wholesaler involved. Upon receipt of a claim, the wholesaler or salesman shall supply the retailer making the claim with a printed claim form. The retailer shall execute the form. Retailers shall hold the damaged merchandise for pickup by the wholesaler's salesman, who shall give a receipt for it to the retailer. The damaged merchandise shall be returned to the wholesaler for subsequent inspection by a representative of the department. Claims found to be unsupported will be disallowed by the department. Breakage claims shall be paid, only after damaged merchandise has been returned to the wholesalers. A credit memo shall be issued by the wholesaler to the account of the retailer and shall clearly indicate that it is for broken or damaged merchandise. Wholesalers may deduct broken or damaged merchandise from their occupational tax report only after evidence of broken or damaged merchandise has been examined as provided in § 64:75:03:14. Repealed.~~

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 5 SDR 60, effective January 25, 1979; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-5-10, 35-10-1(6).~~

Law Implemented: ~~SDCL 35-5-10, 35-10-1(6).~~

CHAPTER 64:75:04

~~ALCOHOLIC BEVERAGES (EXCEPT MALT BEVERAGES)~~ --- INTERPRETIVE

RULES

Section

64:75:04:01	Scope of chapter.
64:75:04:02	Thirty-day credit.
64:75:04:03	Check as payment.
64:75:04:04	Bad checks. <u>Repealed.</u>
64:75:04:05	Retail delinquency. <u>Repealed.</u>
64:75:04:06	Granting financial assistance to licensees.
64:75:04:07 and 64:75:04:08	Repealed.
64:75:04:09	Commercial bribery.
64:75:04:10	Alcoholic beverages as samples -- Consumer advertising specialties.
64:75:04:11	Samples -- Records and reports required. <u>Repealed.</u>
64:75:04:12	Sale and delivery in entirety.
64:75:04:13	Advertising.
64:75:04:14	Certain inducements prohibited.
64:75:04:15 and 64:75:04:16	Repealed.
64:75:04:17	Miscellaneous disposition of liquors.
64:75:04:18	New placement items -- Special marking required.
64:75:04:19	Prohibited without special marking.
64:75:04:20	Invoicing of samples.

64:75:04:21	Authorized bottle and container sizes.
64:75:04:22	Repealed.
64:75:04:23	Drop shipment to retailers.
64:75:04:24	Group wine tasting.
<u>64:75:04:25</u>	<u>Claim of loss by wholesalers.</u>

64:75:04:01. Scope of chapter. This chapter applies to all alcoholic beverages, ~~except malt beverages.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(1-11).

Law Implemented: SDCL 35-4-52.

64:75:04:02. ~~Thirty-day credit~~ Terms of payment. No wholesale licensee, its subsidiary or affiliate corporation, or any officer, director, stockholder, employee or partner thereof, may give or advance money or credit to any retailer. No sale or delivery of alcoholic beverages may be made to any retailer except on terms which require payment by the purchaser within 30 days. Every delivery of alcoholic beverages shall be accompanied by an invoice of sale or a delivery slip giving the date of delivery of such alcoholic beverages. The first day of such credit period is the day following the date of invoice and the 30-day credit period expires at midnight the thirtieth day following the date of invoice, after which payment is delinquent. No remittance by mail is delinquent if the envelope bears the postmark of the thirtieth day following the date of invoice.

If all retail licensees, doing business in the same trade area, are not open for business for any period of time of 7 consecutive days or more, the provisions of this rule relating to the determination of the 30-day credit period do not apply. The period of time for making final

payment on the accrued obligations of a retailer is extended for the same period of time as all retail licensees are not open for business.

Notwithstanding the above, the sale or delivery of malt beverages may be made to a retailer for cash only. In addition to the actual cost of malt beverages, retailers shall pay to the wholesaler not less than the brewery cost of any redeemable containers used. The cash only requirement does not apply to municipally operated establishments or establishments operating pursuant to SDCL 35-4-19 and SDCL 35-4-21 to 35-4-23, inclusive, if the municipality retains the obligation to make payment for the malt beverages directly to a wholesaler.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL ~~35-10-1(6)~~ 35-10-1(6)(11).

Law Implemented: SDCL 35-4-52, ~~35-10-1(6)~~ 35-10-1(6)(11).

Cross-Reference: ~~Sale for cash, § 64:75:08:01.~~

64:75:04:04. Bad checks. ~~If a check is returned for insufficient funds and is not made good by the retailer within 48 hours, no wholesaler may sell the retail licensee any goods for either cash, credit, or check until the insufficient fund check is made good.~~ Repealed.

Source: SL 1975, ch 16, § 1; 2 SDR 2, effective July 17, 1975; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL ~~35-10-1(6)~~.

Law Implemented: SDCL ~~35-10-1(6)~~.

64:75:04:05. Retail delinquency. ~~If any retail dealer becomes delinquent in the payment of any account due for merchandise purchased, the wholesale licensee seller shall report that fact within 24 hours to the department. No retail dealer who becomes delinquent is permitted to purchase merchandise for cash or otherwise from any wholesale licensee until the delinquent account has been paid in full and the delinquent account has been cleared from the records of the department. No retail licensee may buy alcoholic beverages for retail sale from another retail licensee. Any retail licensee who knowingly sells alcoholic beverages for retail sale to another retail licensee is subject to license suspension or revocation.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-2-10, 35-4-52.~~

64:75:04:06. Granting financial assistance to licensees. Any extension or acceptance of credit in violation of this chapter ~~shall be~~ is regarded ~~by the secretary~~ as giving and receiving financial assistance, and the licenses of both the wholesaler and retailer involved in the violation may be suspended or revoked, as determined by the secretary. ~~In addition, any~~ It is a violation of this section for any wholesaler ~~who accepts to accept a postdated checks, notes, or memoranda check, note, or memorandum, or who participates to participate~~ to accept a postdated checks, notes, or memoranda check, note, or memorandum, or who participates to participate in any scheme, trick, or device to assist any retail dealer ~~in the violation of this section is deemed to have granted financial assistance in violation of this section.~~

Source: SL 1975, ch 16, § 1; 2 SDR 2, effective July 17, 1975; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-2-10, 35-4-52, 35-10-1(6).

64:75:04:11. Samples -- Records and reports required. ~~A solicitor may furnish samples to consumers providing the alcoholic beverages furnished have been purchased from a licensed wholesaler and the occupational tax has been paid thereon. No distillery representative, unless the distillery representative is also a licensed solicitor, may furnish such samples.~~

~~Each solicitor licensee shall report on a form prescribed by the secretary the actual amount of samples used each month, where acquired, and the disposition of same.~~

~~Such solicitor license holder shall also file with the department at the call of the secretary a report of travel, sales, and promotional expenses. The report must be authenticated by the solicitor license holder's employer on a form prescribed by the secretary. Failure to comply with this section constitutes grounds for the revocation of a solicitor license holder's permit and for the suspension of the license holder's employer from doing business in the state for a period of time designated by the secretary.~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: ~~SDCL 35-10-1(4).~~

Law Implemented: ~~SDCL 35-4-52.~~

64:75:04:12. Sale and delivery in entirety. An order for any alcoholic beverage, taken by a wholesaler from a retailer, must be a single transaction in its entirety, with delivery as part of the consummated transaction. ~~A contract for production and delivery of no face labels on merchandise may not provide for partial delivery of the order.~~ If an order is taken during a period when the price of a product is posted down, but the wholesaler does not have sufficient inventory to deliver the

product from current stock, then delivery of the product at the post down price shall be made within 30 calendar days of the order date.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 30 SDR 89, effective December 10, 2003; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-4-52.

64:75:04:13. Advertising.

An industry member may not pay or credit retailers for displaying materials or for any expense incidental to its operation. The value of advertising materials and any accessories to the advertising materials shall be computed by including all expenses incurred by the industry member in connection with the purchase, manufacture, and transportation of such materials.

Signs, posters, placards, designs, decorations, or graphic displays bearing advertising matter for use inside a retail establishment may be furnished, given, rented, lent, or sold to a retailer if the materials have no value to the retailer except as advertising. ~~The total value of all such materials furnished by an industry member and in use at any one time in a retail establishment may not exceed \$200 for materials used in window displays or \$250 for materials not used in the window displays.~~ The amount supplied in any calendar year may not exceed ~~\$300~~ \$1,000, not including installation costs.

A wholesaler may furnish consumer advertising specialties to a retailer if the aggregate cost to any industry member of the consumer advertising specialties furnished or given to any one retail establishment in any one calendar year does not exceed ~~\$100~~ \$250. A retailer must pay, ~~no less~~

~~than the wholesaler's cost, for any consumer advertising specialties with a value in excess of \$100~~
\$250 within a calendar year.

~~A wholesaler or supplier may furnish, give, rent, lend, or sell wine lists or wine menus to
retailers only if the wholesaler or supplier includes the names of competing wines if requested by
the recipient of the list or menu. The aggregate value of all lists and menus supplied to a licensee
may not exceed \$150 a year.~~

~~Advertising pieces~~ Any item having a utility value to the retailer other than as advertising,
such as clocks, timepieces, thermometers, and lamps, may be sold, rented, or leased by a distiller,
~~wholesaler, solicitor, or agent~~ an industry member to a retail licensee. The cost of these items may
not be less than the ~~wholesaler's~~ industry member's cost.

Source: SL 1975, ch 16, § 1; 2 SDR 2, effective July 17, 1975; 7 SDR 75, effective February
8, 1981; 11 SDR 1, effective July 19, 1984; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 14
SDR 95, effective January 10, 1988; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective
July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-10-1(6).

64:75:04:14. Certain inducements prohibited. The offering of a bonus, premium, gift,
compensation, or concession of financial value, whether in money or otherwise, to induce the
purchase of an alcoholic beverage is prohibited. The terms bonus, premium, gift, compensation,
or concession of financial value refer to any article offered to a consumer which is in addition to
the immediate container of an alcoholic beverage. These terms include a consumer sales promotion
contest if a purchase is necessary to obtain the concession but do not include or prohibit the
offering of a refund of thirty-six dollars or less to a consumer submitting information, including

proof of purchase of a designated quantity of a brand of alcoholic beverages, in accordance with the provisions of an advertisement. The redemption of a merchandise and coupon plan must be made solely by the manufacturer to the consumer. Nothing in this section may be construed to permit such redemptions by the wholesaler or retailer to the consumer. The rebate may apply to any container size or combination of containers but may not apply to more than one case.

A wholesaler, ~~distributor, or solicitor~~ may rotate ~~distilled spirits, wine, or malt~~ alcoholic beverages which they sell provided products purchased from other industry members are not altered or disturbed. The setting or resetting of all or part of an alcoholic beverage retail premise is permitted if written notice is given forty-eight hours prior to the set or reset to each wholesaler serving the retailer. Shelf stocking is prohibited.

An industry member may provide to a business licensed to sell alcoholic beverages at retail any type of device, equipment, or item intended to prevent the sale of alcoholic beverages to anyone not legally able to purchase the beverages.

An industry member, for reasonable compensation, may also provide to any civic, charitable, educational, fraternal, or veterans organization holding a special event license issued pursuant to SDCL 35-4-124, any type of device or equipment necessary to maintain the integrity of a malt beverage or cider product. The device or equipment may only be provided during the special event and at the special event location. Providing tap wagons or draft trailers is specifically prohibited.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 7 SDR 75, effective February 8, 1981; 11 SDR 1, effective July 19, 1984; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 14 SDR 95, effective January 10, 1988; 21 SDR 219, effective July 1, 1995; 30 SDR 89, effective December 10, 2003; 31 SDR 214, effective July 6, 2005; 33 SDR 226, effective June 27, 2007; 38 SDR 214, effective June 21, 2012.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-10-1(6).

64:75:04:17. Miscellaneous disposition of ~~liquors~~ alcoholic beverages. Except for stock withdrawals by officers of wholesale licensees for their personal use and consumption and samples of pints of alcoholic beverages not previously sold by a wholesaler to a retailer as authorized in § 64:75:04:10, no wholesaler may dispose of alcoholic beverages other than by bona fide sale. No alcoholic beverages may be disposed of by gift except as samples specifically authorized or for use in trade or business meetings of licensed wholesalers or retailers. Except as provided in SDCL 35-2-6.10, ~~No~~ no alcoholic beverages may be given by a wholesaler to any groups, associations, or conventions for use in contests, for prizes, or other activity.

Each wholesaler must keep an accurate and complete record of all alcoholic beverages disposed of. Records must show each item of alcoholic beverages disposed of, the date of the disposition, and the name and address of the recipient. If alcoholic beverages are furnished to any person connected with the wholesaler's business in any capacity, the person shall, within 30 days after the alcoholic beverage is furnished, file with the wholesaler a detailed account of the ultimate disposition, showing the amount, if any, used by the person personally and the name and address of any other recipients. All accounts and records required by this section shall be kept by wholesalers as permanent records, subject to audit.

Notwithstanding any other provision of this article, the secretary may authorize the special disposition of any alcoholic beverage with an order describing the alcoholic beverage disposed of and any special circumstances relating to the beverage.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(4)(6).

Law Implemented: SDCL 35-10-1(4)(6).

64:75:04:18. New placement items -- Special marking required. A wholesaler or ~~solicitor licensee~~ may furnish or give any sample of alcoholic beverages pursuant to subdivision 64:75:04:10(1) to a retail licensee if the sample has stamped thereon or securely affixed to its brand label, in a space not less than one-half inch by two inches of clear and legible type, the words: "Sample--Not for sale. The ~~occupational~~ alcohol excise tax has not been paid on this merchandise. Defacing this label by any retail licensee or ~~licensed solicitor~~ before this container is emptied of its liquid contents is prohibited."

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(1)(4)(6).

Law Implemented: SDCL 35-10-1(1)(4)(6).

64:75:04:19. Prohibited without special marking. No ~~solicitor licensee~~ industry member may possess at any time any alcoholic beverage to be used as samples on which the ~~South Dakota~~ ~~occupational~~ alcohol excise tax has not been paid, unless the notation stated in § 64:75:04:18 is conspicuously shown on each container.

Source: SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(1)(4)(6)(10).

Law Implemented: SDCL 35-10-1(1)(4)(6)(10).

64:75:04:21. Authorized bottle and container sizes. Any ~~supplier, distiller, manufacturer~~ or wholesaler, or vintner licensee may offer alcoholic beverages for sale to ~~on-sale and off-sale~~ licensees any licensee in any size bottle or container that is offered by an industry member.

Source: SL 1975, ch 16, § 1; 2 SDR 2, effective July 17, 1975; 4 SDR 35, effective December 22, 1977; 11 SDR 1, effective July 19, 1984; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 16 SDR 76, effective November 1, 1989; 17 SDR 4, effective July 18, 1990; 21 SDR 219, effective July 1, 1995; 22 SDR 166, effective June 5, 1996; 31 SDR 214, effective July 6, 2005; 37 SDR 69, effective October 19, 2010.

General Authority: SDCL 35-10-1(1)(8).

Law Implemented: SDCL 35-10-1(8).

64:75:04:23. Drop shipment to retailers. ~~Distilled spirits and wine wholesalers~~ Wholesalers may make drop shipments invoiced to a licensed retailer at the location of another licensed retailer under the following provisions:

(1) The licensed retailers and wholesaler concerned must sign a mutual "drop shipment agreement" approved by the department;

(2) The licensed retailer requesting drop shipment privileges must obtain and hold an alcoholic beverage transporter's license during the term of the agreement; and

(3) Each wholesaler shall identify each drop shipment invoice by adding to the usual invoice issued to a retailer the name, address, and license number of the licensed retailer receiving the drop shipment.

Source: 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 30 SDR 58, effective November 5, 2003.

General Authority: SDCL ~~35-10-1~~ 35-10-1(2)(6).

Law Implemented: SDCL 10-1-14, 35-10-1(6).

64:75:04:24. Group wine tasting. The offering of wine by a licensed ~~South Dakota~~ wholesaler to consumers and alcoholic beverage licensees is permitted if the offering complies with the following requirements:

(1) The tasting is held in a public place open to and customarily used by the general public and licensed for the sale of wine;

(2) All ~~occupational~~ alcohol excise and sales taxes are paid on any alcoholic beverage before it is distributed at the tasting;

(3) All beverages offered for tasting are purchased by a licensed ~~South Dakota solicitor or~~ wholesaler from the licensee upon whose premises the tasting is held at a price not less than cost and freight to the licensee; and

(4) The offering is made at no charge to the consumer.

If the licensee upon whose premises the tasting is held does not wish to place the wines provided for the tasting in the inventory for resale, then any wines shipped to that licensee for the purpose of the tasting may be returned to the wholesaler who originally provided the wines. The furnishing of incidentals such as crackers, cheese, and fruit to be used by the participants to distinguish wines is permitted. However, the furnishing of other food items or tangible personal property is prohibited as an inducement to purchase alcoholic beverages.

Source: 7 SDR 75, effective February 8, 1981; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(3)(4).

Law Implemented: SDCL 35-4-52, 35-10-1(3)(4).

64:75:04:25. Claim of loss by wholesalers. Any wholesaler who sustains a loss of stock due to breakage, spoilage, or any other cause which would render the wholesaler's stock unfit for resale and on which any alcohol taxes were paid shall report the loss monthly on a form approved or prescribed by the secretary. Each wholesaler shall report the date and cause of loss, total volume of alcoholic beverages lost by type, and total purchase price of alcoholic beverages lost by type. Any wholesaler who has filed loss claims may not dispose of the stock until an agent of the department has had an opportunity to audit the loss claim.

If the claim of loss is made by a retailer to a wholesaler, the claim shall be made within one week of receipt of the broken or damaged stock.

General Authority: SDCL 35-5-10, 35-10-1(6).

Law Implemented: SDCL 35-5-10, 35-10-1(6).

CHAPTER 64:75:05

~~ALCOHOLIC BEVERAGES (EXCEPT MALT BEVERAGES) -- OCCUPATIONAL~~ ALCOHOL TAXES.

Section

64:75:05:01 to 64:75:05:03	Repealed.
64:75:05:04	Wholesaler's joint purchasing.
64:75:05:05	In-state purchases by wholesaler.
64:75:05:06 and 64:75:05:07	Repealed.
64:75:05:08	Purchase price defined.
<u>64:75:05:09</u>	<u>Computation of volume for alcohol excise tax.</u>

64:75:05:04. Wholesaler's joint purchasing. If two or more wholesale licensees, who purchase or import alcoholic beverages of any class on a joint purchase venture, and the purchase is consigned to and received by a specific wholesaler as the original or prime wholesaler, the consignee is liable for ~~all the occupational tax~~ any applicable alcohol taxes.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(10).

Law Implemented: SDCL 35-5-10.

64:75:05:05. In-state purchases by wholesaler. A wholesale licensee who purchases any class of alcoholic beverage from another in-state licensed wholesaler, whether the purchase constitutes a joint purchase venture, shall reimburse ~~such the original~~ wholesaler ~~the occupational tax~~ any applicable alcohol taxes due on the purchase. ~~Itemized listings of these transactions in the space provided on the bottom portion of the monthly alcoholic beverage tax reporting form must be reported to the department for auditing and occupational tax credit purposes.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(10).

Law Implemented: SDCL 35-5-10.

64:75:05:08. Purchase price defined. For the purposes of the ~~alcoholic beverage~~ tax imposed by SDCL 35-5-6.1, purchase price means the total price, valued in money, paid or to be paid for alcoholic beverages F.O.B. point of origin. Freight charges paid by the purchaser after title to the alcoholic beverages passes to the purchaser are not a part of the purchase price.

Source: 5 SDR 6, effective August 6, 1978; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.

General Authority: SDCL ~~35-10-1~~ 35-10-1(10).

Law Implemented: SDCL 35-5-6.1.

64:75:05:09. Computation of volume for alcohol excise tax. For purposes of the alcohol excise tax, the computation of volume shall be rounded to the nearest hundredth decimal place.

General Authority: SDCL 35-10-1(10).

Law Implemented: SDCL 35-10-1(10).

CHAPTER 64:75:06

MALT BEVERAGES -- INTERPRETIVE RULES

(Repealed)

Section

~~64:75:06:01 to 64:75:06:03—Repealed.~~

~~64:75:06:04—Claim of loss by malt beverage wholesalers.~~

~~64:75:06:05—Disposal of unsaleable stock.~~

~~64:75:06:06—Authorized barrel sizes.~~

~~64:75:06:07—Repealed.~~

~~64:75:06:08—Exchange of malt beverage products.~~

~~64:75:06:04. Claim of loss by malt beverage wholesalers.~~ Any licensed malt beverage wholesaler who sustains a loss of stock due to breakage, spoilage, or any other cause which would render the wholesaler's stock unfit for resale and on which the malt beverage occupational tax had been paid shall report the loss on a monthly reporting form prescribed by the secretary.

Each wholesaler shall report the date and cause of loss, brand name, class, size of container, number of containers, and barrels and percentage of a barrel claimed as a loss on its monthly report to the department.

Source: ~~SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(6)(10).~~

Law Implemented: ~~SDCL 35-10-1(6)(10).~~

64:75:06:05. Disposal of unsaleable stock. Any malt beverage wholesaler who has filed loss claims of malt beverage stock may not dispose of the stock until an agent of the department or an agent of the Internal Revenue Service or both has had an opportunity to audit the loss claim. An agent must file a malt beverage disposal report containing the same information required by § 64:75:06:04, before a wholesaler can claim credit for malt beverage occupational taxes, due to the disposal of the stock.

Source: ~~SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-10-1(6)(10).~~

64:75:06:06. Authorized barrel sizes. Malt beverage manufacturers importing into the state and licensed wholesalers operating within the state are authorized to market malt beverages in any size container.

Source: ~~SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(8).~~

~~Law Implemented:~~ ~~SDCL 10-1-13, 35-10-1(8).~~

~~64:75:06:08. Exchange of malt beverage products.~~ ~~Licensed malt beverage wholesalers may exchange for fresher products stale or outdated malt beverage products or products in damaged or deteriorated containers previously sold to a retail licensee. The exchange may be based only on a brand product for brand product and size for size substitution. Nothing in this section requires a wholesaler to redeem or exchange such products from a retail licensee.~~

~~Source:~~ ~~12 SDR 111, effective January 12, 1986; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995.~~

~~General Authority:~~ ~~SDCL 35-10-1.~~

~~Law Implemented:~~ ~~SDCL 35-10-1(6).~~

CHAPTER 64:75:07

MALT BEVERAGES -- OCCUPATIONAL TAXES

(Repealed)

Section

~~64:75:07:01~~——~~Computation of occupational taxes.~~

~~64:75:07:02~~——~~Repealed.~~

~~64:75:07:01. Computation of occupational taxes.~~ ~~Manufacturers and wholesalers shall compute the quantity of all malt beverage products received into standard barrels of 31 gallons regardless of the container size or units per case or carton, for the purpose of computing their occupational tax liability. Computation shall be carried out to the nearest one hundredth percent of a barrel for reporting and taxation purposes.~~

Source: ~~SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(10).~~

Law Implemented: ~~SDCL 35-5-3(5), 35-10-1(10).~~

CHAPTER 64:75:08

MALT BEVERAGES -- UNFAIR PRACTICES

(Repealed)

Section

~~64:75:08:01 — Sale for cash.~~

~~64:75:08:02 — Gifts or loans to retailers prohibited — Interest in retail business prohibited —~~

~~Exceptions.~~

~~64:75:08:03 — Advertising.~~

~~64:75:08:04 — Retailer participation in violation.~~

~~64:75:08:05 — Sale of consumer advertising specialties to retailer.~~

~~64:75:08:06 — Repealed.~~

~~64:75:08:07 — Insufficient funds check.~~

~~64:75:08:08 — Retail delinquency.~~

~~64:75:08:09 — Financial assistance to licensee.~~

~~64:75:08:10 — Certain inducements prohibited.~~

~~64:75:08:11 — Commercial bribery.~~

~~64:75:08:12 — Conformity to price schedule.~~

~~64:75:08:13 — Maintenance of price schedule.~~

~~64:75:08:01. Sale for cash.~~ No wholesaler, brewer, or subsidiary or affiliate corporation or any officer, stockholder, employee, or partner of any of them, may advance money or credit to a retailer. Sale or delivery of malt beverages may be made to a retailer for cash only. In addition to the actual cost of malt beverages, retailers shall pay to the wholesaler not less than the brewery cost of any redeemable containers used.

This section does not apply to municipally operated establishments or establishments operating pursuant to SDCL 35-4-19 and SDCL 35-4-21 to 35-4-23, inclusive, if the municipality retains the obligation to make payment for the alcoholic beverages directly to a wholesaler or brewer.

Source: SL 1975, ch 16, § 1; 2 SDR 2, effective July 17, 1975; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 19 SDR 42, effective September 29, 1992; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.

General Authority: SDCL 35-10-1(6).

Law Implemented: SDCL 35-10-1(6).

Cross-Reference: Thirty-day credit, § 64:75:04:02.

~~64:75:08:02. Gifts or loans to retailers prohibited -- Interest in retail business prohibited -- Exceptions.~~ No manufacturer, distributor, or wholesaler may: (1) Sell at less than cost, supply, furnish, give, pay for, loan, or lease any furnishing, fixture, or equipment on the premises of the place of business of another licensee authorized to sell malt beverages at retail either for consumption or for use on or off the premises; (2) Pay for any license or advance, furnish, lend, or give money for payment of the license; (3) Purchase or become the owner of any note, mortgage, or other evidence of indebtedness of any licensee or any form of security therefor;

~~(4) Be financially interested in the ownership, conduct, or operation of the business of any licensee authorized to sell malt beverages at retail; or (5) Be interested as owner, part owner, lessee, or lessor thereof, in any premises upon which malt beverages are sold at retail.~~

~~However, an industry member may provide to a business licensed to sell malt beverages at retail any type of device, equipment, or item intended to prevent the sale of alcoholic beverages to anyone not legally able to purchase the beverages.~~

~~**Source:** SL 1975, ch 16, § 1; 2 SDR 2, effective July 17, 1975; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005; 33 SDR 226, effective June 27, 2007.~~

~~**General Authority:** SDCL 35-10-1(6)(11).~~

~~**Law Implemented:** SDCL 35-10-1(6)(11).~~

~~**64:75:08:03. Advertising.** The terms, furniture, fixtures, fittings, or equipment, in addition to the regular and usual meaning of these terms, shall for the purpose of this section also include any point of sale material or advertising media of a value per single complete item to the installer in excess of \$350, manufacturer's selling price.~~

~~**Source:** SL 1975, ch 16, § 1; 4 SDR 35, effective December 22, 1977; 7 SDR 75, effective February 8, 1981; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

~~**General Authority:** SDCL 35-10-1(3).~~

~~**Law Implemented:** SDCL 35-10-1(3).~~

~~**64:75:08:04. Retailer participation in violation.** No person, firm, partnership, or corporation which is licensed under the malt beverage law of this state may permit to be displayed, placed, installed, or left on the licensed premises any prohibited advertising material.~~

Source: ~~SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-10-1(6).~~

~~64:75:08:05. Sale of consumer advertising specialties to retailer.~~ ~~No manufacturer or wholesaler may give away or sell for less than its cost consumer advertising specialties to a retailer.~~

Source: ~~SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(3).~~

Law Implemented: ~~SDCL 35-10-1(3).~~

~~64:75:08:07. Insufficient funds check.~~ ~~If a check is returned for insufficient funds and is not made good by the retailer within 48 hours, no wholesaler may sell the retail licensee any goods until the insufficient fund check is made good.~~

Source: ~~2 SDR 2, effective July 17, 1975; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-10-1(6).~~

~~64:75:08:08. Retail delinquency.~~ ~~A retail licensee who has an insufficient funds check still owing and, as a result, cannot buy from a wholesaler, may not buy any malt beverage from another retail licensee. Any retail licensee who knowingly sells any malt beverage to another retailer under these conditions is subject to license suspension or revocation as may be determined by the secretary.~~

Source: 2 SDR 2, effective July 17, 1975; ~~13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-10-1(6).~~

~~64:75:08:09. Financial assistance to licensee.~~ Any extension or acceptance of credit, in violation of this chapter, is regarded as receiving financial assistance, and the licenses of both the wholesaler and retailer involved may be suspended or revoked, as determined by the secretary. ~~Any wholesaler who accepts postdated checks, notes or memorandum, or who participates in any scheme, trick, or device to assist any retail dealer is guilty of a violation of this chapter.~~

Source: 2 SDR 2, effective July 17, 1975; ~~3 SDR 37, effective November 17, 1976; 4 SDR 35, effective December 22, 1977; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 21 SDR 219, effective July 1, 1995; 31 SDR 214, effective July 6, 2005.~~

General Authority: ~~SDCL 35-10-1(6).~~

Law Implemented: ~~SDCL 35-10-1(3)(6).~~

~~64:75:08:10. Certain inducements prohibited.~~ The offering of a bonus, premium, gift compensation, or concession of financial value, whether in money or otherwise, to induce the purchase of malt beverages is prohibited. The terms, bonus, premium, gift, compensation, or concession of financial value, refer to any article offered to a consumer which is in addition to the immediate container of an alcoholic beverage. These terms include a consumer sales promotion contest if a purchase is necessary to obtain the concession but do not include or prohibit the offering of a refund of thirty-six dollars or less to a consumer submitting information, including proof of purchase of a designated quantity of a brand of alcoholic beverages, in accordance with

~~the provisions of an advertisement. The redemption of a merchandise and coupon plan must be made solely by the manufacturer to the consumer. Nothing in this section may be construed to permit such redemptions by the wholesaler or retailer to the consumer. The rebate may apply to any container size or combination of containers but may not apply to more than one case.~~

~~A wholesaler, distributor, or solicitor may rotate malt beverages which they sell. The setting or resetting of all or part of an alcoholic beverage retail premise is permitted if notice is given forty eight hours prior to the set or reset to each wholesaler serving the retailer. Pullups filling of displays and rotation is only allowed at the point of order taking or invoicing. Shelf stocking is prohibited.~~

~~**Source:** 31 SDR 214, effective July 6, 2005; 38 SDR 214, effective June 21, 2012.~~

~~**General Authority:** SDCL 35-10-1(6).~~

~~**Law Implemented:** SDCL 35-10-1(6).~~

~~**64:75:08:11. Commercial bribery.** Except as otherwise provided, no industry member may induce or seek to induce any retailer to purchase alcoholic beverages by offering or giving to the retailer, or to any officer, employee, or representative of the retailer, a bonus, premium, gift, compensation, or any other concession of financial value, whether in money or otherwise. It is a violation of this section for an industry member to make purchases of alcoholic beverages from any retailer as an inducement to order or purchase alcoholic beverages from the industry member.~~

~~**Source:** 32 SDR 58, effective October 25, 2005.~~

~~**General Authority:** SDCL 35-10-1(6).~~

~~**Law Implemented:** SDCL 35-4-52.~~

~~**64:75:08:12. Conformity to price schedule.** Each wholesaler shall strictly conform to the prices set forth in the wholesaler's price schedule during the sale of malt beverages to any retailer.~~

~~No wholesaler may make a sale of malt beverages to any retailer at a price that is more or less than specified in the price schedule.~~

~~**Source:** 37 SDR 69, effective October 19, 2010.~~

~~**General Authority:** SDCL 35-10-1.~~

~~**Law Implemented:** SDCL 35-10-1(6).~~

~~**64:75:08:13. Maintenance of price schedule.** Each wholesaler must maintain a complete schedule in a form authorized by the secretary of each price to be charged freight on board and the municipality of shipment, for each brand and brand segment of malt beverages. The price schedule shall be uniform for each package of each container size for each brand segment of malt beverage, regardless of the label or container design. The price schedule shall specify:~~

- ~~(1) The unit price per package for malt beverages of each brand and brand segment;~~
- ~~(2) The unit price per bottle, can, or other container for each malt beverage sold; and~~
- ~~(3) The size of the bottle, can, or other container in each package.~~

~~Each wholesaler must maintain its current price schedule at its principal place of business and leave the price schedule open to inspection by the secretary during normal business hours. Each price schedule used within the last year must be dated and kept at the principal place of business and be made available for inspection.~~

~~For purposes of this section, the term "brand segment" means: a sub category of malt beverage under the main brand.~~

~~**Source:** 37 SDR 69, effective October 19, 2010.~~

~~**General Authority:** SDCL 35-10-1.~~

~~**Law Implemented:** SDCL 35-10-1(6).~~

Example: If ABC is the brand, ABC Light, ABC Dry, and ABC Light Wheat would be the brand segments.